

REMARKS

Reconsideration and withdrawal of the Examiner's rejections under 35 USC § 102 and 103 is respectfully requested in view of the foregoing amendments and the following remarks.

35 USC §102

The examiner has rejected claims 1-2, 5-11 under 35 U.S.C. 102(b) as being anticipated by JP 05168686, hereinafter "JP '686", asserting the following:

JP '686 teaches a package for treating filth which comprises a powdery deodorant prepared from compounding one or more than two kinds of deodorizing components selected from vegetable essential oils and terpenes which are deposited on a powdery material, and is packed and hermetically sealed alone or together with a water-absorptive resin into a packaging material consisting of a water-soluble film (see abstract), preferably polyvinyl alcohol (see section [0013] of the crude translation). Examples of the powdery support materials are dextrin and a porosity silica (see section [0011] on page 2 of the crude translation). In Example 1, JP '686 teaches a powdery deodorant prepared from 37.5 g of orange oil and 50 g vegetable oil supported on dextrin, and a bag which consists of polyvinyl alcohol film is filled with a 1.5 g of this deodorant and the closed opening in the bag is heat sealed (see section [0020] on page 3 of the crude translation). See also Examples 2-4. The wrapping material which consists of a water-soluble film dissolves quickly upon contact with the moisture of the vomit, the deodorant is released and the nasty smell is deodorized (see section [0017] on page 3 of the crude translation). The pore volume of the support material such as dextrin or silica should have a pore volume as those recited because same materials have been utilized. Hence, JP '686 anticipates the claims.

In response, applicants have amended claim 1 to contain the limitations of claim 4 so as to clearly distinguish the instant invention over JP '686. As the examiner admits, JP '686 fails to disclose polymers comprising the recited monomers as particle carrier material. JP '686 relates to a deodorant that is packed and hermetically sealed, either alone or together with a water-absorptive resin, into a packaging material consisting of a water-soluble film. As discussed above, there is no disclosure or suggestion concerning the use of polymers comprising the recited monomers for supporting perfume.

35 USC §103

The examiner has rejected Claim 4 under 35 U.S.C. 103(a) as being unpatentable over JP '686 as applied to the above claims, and further in view of Ness, et al. (US Patent No. 6,194,375), hereinafter "Ness", asserting the following:

JP '686 teaches the features as previously described. JP '686, however, fails to disclose polymers comprising the recited monomers as support or particle carrier for the deodorizing components or perfume.

Ness teaches absorption of perfume by particles comprising monomers such as isobutyl methacrylate, n-butyl acrylate, n-butyl methacrylate, n-propyl acrylate, iso-propylmethacrylate and styrene (see col. 4, lines 28-33, examples) and such can retard the evaporation of deposited perfume and can also enhance the extent to which deposited perfume survives a subsequent drying step (see col. 1, lines 55-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to support the deodorizing components or perfume of JP '686 onto particles comprising monomers like isobutyl methacrylate because this will retard the evaporation of deposited perfume and can also enhance the extent to which deposited perfume survives a subsequent drying step as taught by Ness. Applicants respectfully traverse this rejection.

Ness relates to organic polymer particles that have absorbed perfume and which are coated with a specific polymer having free hydroxyl groups. In one preferred embodiment, Ness discloses the use of a water-soluble polymer to encapsulate perfume droplets (see col. 6, lines 27-37). Importantly, this hydroxyl functional polymer shell would typically be outweighed by the perfume droplets it encapsulates so that the hydroxyl functional polymer actually represents only a small fraction of the total perfume weight (see col. 7, lines 5-10). In a further preferred embodiment, Ness discloses forming encapsulated particles such as an acrylate polymer particle coated with a hydroxyl functional polymer (see col. 7, lines 12-21). In an analogous manner, the hydroxyl functional polymer likewise represents only a small percent of the perfume particle composition in this second embodiment of Ness.

This teaches away from the instant invention as presently claimed wherein a pouch made from a water reactive material contains a plurality of perfume particles unlike the discrete particles of Ness which are individually coated with a potentially water reactive material. Therefore, the skilled person would not have been motivated to take a plurality of uncoated discrete particles containing perfume and package them in a water reactive material containing pouch from the teaching of Ness. This situation would instead operate counter to Ness' stated goal of associating encapsulated perfume or encapsulated perfume particles with fabric during a laundry process by virtue of the affinity of the hydroxyl polymer coating for the fabric. Moreover, there is no disclosure or suggestion that would motivate the skilled person to combine JP '686 with Ness because of the different problems to be solved, i.e., JP '686, being concerned with the neutralization of foul smelling odors from vomit and Ness being concerned with a fabric treatment composition for depositing perfume onto fabrics during a laundry process.

It is well settled that the examiner cannot pick and choose among individual elements of assorted prior art references to recreate the claimed invention based on the hindsight of the applicant's invention. Rather, the examiner has the burden to show some teaching or suggestion of the references to support their use in the particular claimed combination. See Smith Klein Diagnostics, Inc. v. Helena Laboratories Corp., 8 USPQ 2d. 1468, 1475 (Fed.

Cir. 1985). Additionally, the mere fact that it is possible to find isolated disclosures which might be combined in such a way as to produce a new combination does not necessarily render such a combination obvious, unless the art also contains something to suggest the desirability of the proposed combination. In re Grabiak, 226 USPQ 2d. 870, 872 (Fed. Cir. 1985). Consequently, applicant's respectfully submit that the rejection under 35 USC 103(a) is improper and should be withdrawn.

Other Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure by the examiner in that the references are considered cumulative to or less material than those discussed above. In response, applicants have carefully considered these references and respectfully assert that they do not disclose or suggest the instant invention as presently claimed.

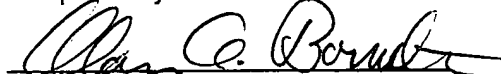
CONCLUSION

In summary, claims 1 and 6 have been amended and claims 4, 5 and 7 have been cancelled without prejudice. No new matter has been added by these amendments.

In light of the above amendments and remarks, applicants submit that all claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested.

If a telephone interview would facilitate prosecution of the application, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,



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